

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

BERTHA F. HEYL

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-3127

Decision No. CU 4310

Counsel for claimant:

Carvajal & Lieberman  
By Alfred M. Carvajal, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$63,557.60, was presented by BERTHA F. HEYL, based upon the asserted loss of certain real and personal property in Cuba. Claimant has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The record establishes and the Commission finds that in 1955 claimant and her husband, Frederick W. Heyl, a national of the United States since birth, acquired title to certain land in Nueva Gerona, Isle of Pines, Cuba. Claimant and her husband moved to Cuba late in 1957, taking with them many items of personal property involved in this claim, including two automobiles. Subsequently, they caused a house to be constructed on the land and they completely furnished the house.

On December 6, 1961, the Cuban Government published Law 989, which confiscated all real property, personal property, rights, shares, stocks, bonds, securities and bank accounts of persons who had left the country. The Commission finds that this law applied to claimant and her late husband, who had left Cuba prior to that date, and that their interests in all of the property claimed were taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. The Commission further finds that as a result of said action they sustained a loss of property within the meaning of Title V of the Act. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

Frederick W. Heyl died on January 27, 1965 and upon his death claimant inherited his interest in the claim arising from the taking.

The evidence includes many bills, invoices and receipts, evidencing the expenditure of substantial sums of money in building the house and otherwise improving the land. A pump house and a water well were constructed as well as a driveway, and an entrance gate made of brick and concrete. It appears that the improvements were fairly new on the date of loss.

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Upon consideration of the entire record, the Commission finds that the improved real property had the following value on December 6, 1961, the date of loss:

Land	\$10,000.00
Building	38,000.00
Pump House	1,800.00
Water Well	400.00
Driveway and Gate	<u>2,000.00</u>
Total	<u>\$52,200.00</u>

Personal Property

In connection with the real property, claimant and her late husband purchased, late in 1957, a cement mixer, a portable pump, a power sprayer, and a tractor and related equipment, at an aggregate cost of \$3,557.60. The Commission finds that said machinery and equipment should be depreciated for four years at the rate of 5% per year, customarily applied by the Commission with respect to such property. Accordingly, the Commission finds that the aggregate value of the foregoing items of machinery and equipment after depreciation was \$2,846.08 on December 6, 1961, the date of loss.

The Commission further finds that claimant and her late husband owned a 1957 Ford automobile and a 1952 Willys Station Wagon, and that these two vehicles had an aggregate value of \$1,000.00 on the date of loss.

The record shows that claimant and her late husband purchased in June 1959 household furniture and furnishings at an aggregate cost of \$4,000.00. The Commission finds that said property should be depreciated for 2-1/2 years at the rate of 10% per year, customarily applied to such property. Accordingly, the Commission finds that the aggregate value of the furniture and furnishings after depreciation was \$3,000.00 on December 6, 1961, the date of loss.

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The Commission further finds that the aggregate value of other items of personal property, including clothing, on the date of loss was \$2,000.00.

Claimant's losses within the meaning of Title V of the Act may be summarized as follows:

<u>Item of Property</u>	<u>Amount</u>
Real Property	\$52,200.00
Machinery and Equipment	2,846.08
Automobiles	1,000.00
Furniture and Furnishings	3,000.00
Other Personal Property	<u>2,000.00</u>
Total	<u>\$61,046.08</u>

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

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CERTIFICATION OF LOSS

The Commission certifies that BERTHA F. HEYL succeeded to and suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Sixty-one Thousand Forty-six Dollars and Eight Cents (\$61,046.08) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

7 JAN 1970

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

Sidney Freidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

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